

Serial No. 09/538,396  
Group Art Unit: 1638

**In the Claims:**

Please amend claims 3, 4, 12, 13, and 14 as follows:

3. (Twice Amended) A host cell comprising the nucleic acid of claim 12.
4. (Twice Amended) A transgenic plant comprising a recombinant expression cassette comprising the nucleic acid of claim 12.
12. (Amended) An isolated nucleic acid comprising a polynucleotide selected from the group consisting of:
  - (a) a polynucleotide having at least 80% sequence identity over the entire length of the reference sequence, as determined by the GAP program under default parameters, to a polynucleotide of SEQ ID NO: 1;
  - (b) a polynucleotide encoding a polypeptide of SEQ ID NO: 2;
  - (c) a polynucleotide of SEQ ID NO: 1;
  - (d) a polynucleotide which is fully complementary to a polynucleotide of (a), (b), or (c),  
wherein the polynucleotide of (a), (b), (c), or (d) modulates the level of Rad50 polypeptide.
13. (Amended) An isolated polynucleotide amplified from a *Zea mays* nucleic acid library using primers which selectively hybridize, under stringent hybridization conditions, to a polynucleotide of SEQ ID NO: 1, wherein the polynucleotide modulates the level of Rad50 polypeptide.
14. (Amended) An isolated polynucleotide which selectively hybridizes, under stringent hybridization conditions and a wash in 0.1X SSC at 60°C, to a polynucleotide of SEQ ID NO: 1, wherein stringent hybridization conditions comprise 50% formamide, 1M NaCl, and 1% SDS at 37°C, or conditions equivalent thereto, and wherein the polynucleotide modulates the level of Rad50 polypeptide.